

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

ROBERT CLAUSS,

Plaintiff,

vs.

BLACKBOOK CAPITAL, LLC,

Defendant.

Case No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a) and Fed.R.Civ.P. 81(c), defendant BlackBook Capital, LLC hereby gives notice of removal of this civil action from the District Court for Polk County, Iowa (the “State Action”) to the United States District Court for the Southern District of Iowa, Central Division, and in support thereof states as follows:

I. INTRODUCTION

1. On or about July 17, 2013, plaintiff Robert Clauss filed suit in the Polk County District Court, Polk County, Iowa under Case No. LACL 128184. On or about August 22, 2013, defendant BlackBook Capital, LLC was served with the Original Notice and Petition at Law, copies of which are attached at Exhibit A. No process, pleadings or other documents have been served upon the moving defendant other than the attached Original Notice and Petition at Law.

II. NATURE OF THE SUIT

2. In Plaintiff’s Petition, he alleges violations of the Telephone Consumer Protection Act, 47 USC §§ 227 et seq (TCPA) and seeks penalties and damages thereunder from

Defendant.

III. BASIS FOR REMOVAL

3. This Court has original federal question jurisdiction over this action in that it is a civil action founded on a claim or right arising under the laws of the United States. 28 U.S.C. § 1331, *Mims v. Arrow Financial Services, LLC*, 132 S. Ct. 740, 753 181 L. Ed. 2d 881, 899 (2012). Therefore, removal pursuant to 28 U.S.C. § 1441 *et seq.* is proper here.

4. The time within which BlackBook Capital, LLC is required to file this Notice of Removal has not yet expired. *See* 28 U.S.C. § 1446(b).

IV. NOTICE OF REMOVAL IS PROCEDURALLY CORRECT

5. BlackBook Capital, LLC's Notice of Removal is procedurally correct; BlackBook Capital, LLC is the only named and served defendant in the suit.

6. Filed concurrently herewith is the Certification Pursuant to Local Rule 81.1 whereby BlackBook Capital, LLC is providing the Court with the information required by that Local Rule.

7. Venue is proper in this district under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed suit was pending

8. Defendant BlackBook Capital, LLC will promptly file a copy of this Notice of Removal with the Clerk of the state court in which the suit is pending.

WHEREFORE, Defendant BlackBook Capital, LLC prays this Court remove this matter from the Iowa District Court for Polk County to removal of this action to the United States District Court for the Southern District of Iowa, Central Division.

/s/ James H. Gilliam¹

James H. Gilliam AT0002882

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11th day of September, 2013, the undersigned electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which, pursuant to Local Rule 5.3(k)(1), will send a notice of electronic filing to the following by regular mail:

Robert Clauss
Pro Se Plaintiff
9923 Clark Street
Clive, IA 50325

/s/ James H. Gilliam

¹ This document has been electronically signed.

² This document has been electronically signed, filed and served.